



**International covenant
on civil and
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HUMAN RIGHTS COMMITTEE
Sixty-third session

HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

ECUADOR

1. The Committee considered the fourth periodic report of Ecuador (CCPR/C/84/Add.6) at its 1673rd and 1674th meetings on 14 July 1998 (CCPR/C/SR.1673 and SR.1674) and adopted the following concluding observations at its 1692nd meeting on 27 July 1998 (CCPR/C/SR.1692).

A. Introduction

2. The Committee welcomes the fourth periodic report as well as the addendum to the report, updating information submitted by the State party. The Committee appreciates the presence of a high level delegation and the frank exchange with the Committee, enabling it to obtain a clearer view of the present human rights situation in Ecuador.

3. The Committee, while appreciating the addendum to the report provided by the State party, regrets that it did not receive a core document, which would have helped the Committee to better understand the problems existing in Ecuador. The Committee also regrets the overall lack of reliable statistics.

B. Positive aspects

4. The Committee takes note of the promulgation of the new Constitution in May 1997, which will enter into force in August 1998, and welcomes the expanded list of provisions for the protection of human rights.

5. The Committee welcomes the adoption of legislation which establishes measures for the compensation of victims of human rights violations. It also expresses its satisfaction with the information that the next-of-kin of two particularly serious cases of human rights violations have been compensated by the State party.

6. The Committee welcomes the National Human Rights Plan, as well as the establishment of the Consejo Nacional de la Magistratura. It also notes the decision to appoint a new Ombudsman and welcomes the creation of the remedies of amparo and habeas data, as well as the expansion of the remedy of habeas corpus.

7. The Committee welcomes the information that article 23 of the Constitution prohibits the enacting of amnesty legislation or granting pardons for human rights violations; that torture, enforced disappearances and extrajudicial executions have no statute of limitation; and that obedience to superior orders cannot be invoked as an extenuating circumstance. It also welcomes the information that the jurisdiction of the military tribunals has been limited to members of the armed forces in the exercise of their official functions; that these tribunals have no jurisdiction over civilians; and that cases of human rights violations by members of the army and the security forces fall under the jurisdiction of civilian courts.

8. The Committee welcomes the information that the Constitutional Court has declared unconstitutional the criminalization of private homosexual relations between consenting adults and the law excluding persons charged under the Narcotics and Psychotropic Substances Act from the application of the new provisions on detention pending trial.

9. The Committee welcomes the information that a series of educational programmes have been devised in collaboration with international institutions, to enable all segments of the population, in particular members of the army, security forces and the police, and members of the judiciary and lawyers, to be better acquainted with international standards for the protection and observance of human rights and human dignity.

C. Principal subjects of concern, suggestions and recommendations

10. The Committee is concerned at the many instances of violence against women and the very few judicial decisions thereon. The Committee stresses that all reported acts of violence against women should be investigated and appropriate judicial proceedings instituted.

11. The Committee expresses its concern about the very high number of suicides of young females referred to in the report, which appear in part to be related to the prohibition of abortion. In this regard, the Committee regrets the State party's failure to address the resulting problems faced by adolescent girls, in particular rape victims, who suffer the consequences of such acts for the rest of their lives. Such situations are, from both the legal and practical standpoints, incompatible with articles 3, 6 and 7 of the Covenant, and with article 24 when female minors are involved. The Committee

recommends that the State party adopt all necessary legislative and other measures to assist women, and particularly adolescent girls, faced with the problem of unwanted pregnancies to obtain access to adequate health and education facilities.

12. Notwithstanding the positive information provided in respect of the measures taken to amend criminal proceedings, to establish oral hearings and to introduce alternative ways of dealing with civil matters, the Committee continues to be concerned about the unreasonably long judicial delays.

The Committee encourages the State party to expedite the process in view of the severe backlog in the courts.

13. The Committee is particularly concerned that accused persons may be held in detention pending trial for a maximum duration of a third of the possible sentence facing them, irrespective of the risk that they may fail to appear for trial and that the State party's own statistics indicate that close to 70 per cent of the prison population is awaiting trial. This situation is incompatible with the presumption of innocence and the right to be tried within a reasonable time or to be released on bail as provided for in articles 9 and 14 of the Covenant.

The Committee recommends that bail legislation be brought into conformity with the provisions of the Covenant and that resort to preventive detention be the exception and not the rule.

14. The Committee expresses concern about the long delays in judicial proceedings which are incompatible with the requirements of articles 9 and 14 of the Covenant. It is also concerned at the severe shortage of public defenders for the poor in Quito and Guayaquil and their total unavailability in many parts of the country. This situation is particularly grave since Ecuadorian law requires mandatory legal assistance in court proceedings.

The Committee recommends that the State party address the question of the long judicial delays, and in particular that it comply with the provisions of the Code of Criminal Procedure, which stipulates that the initial trial should be completed within 60 days. The Committee encourages the State party to increase the number of public defenders and to extend their presence throughout the whole of its territory.

15. The Committee expresses its concern that the provisions of Law No. 10282 on the state of emergency and those contained in article 103 (6) (h) of the Constitution, enumerating the constitutional articles which may be derogated from during a state of emergency are not in conformity with the Covenant.

The Committee regrets not having received sufficient information on which articles may be derogated from during a state of emergency and whether they are in conformity with the Covenant.

16. The Committee is concerned that, despite the Plan for Equal Opportunity 1996-2000 and the constitutional guarantees of the rights of women and laws designed to end discrimination, women continue to receive unequal

treatment in Ecuador owing in part to the continuation of traditional attitudes and obsolete laws. This situation and the aforementioned laws give rise to problems under articles 3, 23, 24 and 26 of the Covenant.

The Committee recommends that the State party fully implement the Plan for Equal Opportunity. It also recommends that the State party abrogate those provisions of the Code of Criminal Procedure which prevent a prostitute from being considered as a suitable witness in trials. The Committee requests the State party to inform it of the measures adopted and of the results achieved under the Plan for Equal Opportunity in its next periodic report.

17. The Committee is also concerned that, despite the legal requirement of judicial authorization for the employment of children under 14 years of age, there continues to be exploitation of children in employment.

The Committee recommends that the Comité Nacional para la Eradicación Progresiva del Trabajo Infantil be provided with the necessary means to carry out its mandate to eliminate the practice of child labour.

18. The Committee is concerned that the births of children born in Ecuador to undocumented refugees are frequently not registered due to the parents' fear of deportation. This situation prevents the children from claiming Ecuadorian nationality, to which any child born in Ecuador is entitled under Ecuadorian law.

The Committee recommends that the State party adopt measures guaranteeing to all children of undocumented refugees born in Ecuador the right to a nationality.

19. The Committee expresses concern at the impact of oil extraction on the enjoyment by members of indigenous groups of their rights under article 27 of the Covenant. In this connection, the Committee is concerned that, despite the legislation enacted to allow indigenous communities to enjoy the full use of their traditional lands in a communal way, there remain obstacles to the full enjoyment of the rights protected under article 27 of the Covenant.

The Committee recommends that further measures be taken to ensure that members of indigenous groups be protected against the adverse effects of the oil exploitation within the country and be enabled to enjoy fully their rights under article 27 of the Covenant, particularly with regard to preservation of their cultural identity and traditional livelihood.

20. The Committee appreciates the assurances provided by the State party that the views of the Committee expressed in communications Nos. 480/1991 and 481/1991 are being dealt with. However, the Committee has not been informed of the actual implementation of the views and the redress that the victims may have obtained. The Committee awaits the receipt of the relevant information.

21. The Committee urges that respect for human rights be institutionalized at all levels of government, and recommends that human rights education be provided in schools at all levels and that the present concluding observations be widely disseminated.

22. The Committee recommends that the State party give the widest dissemination to the present concluding observations, in particular by bringing them to the attention of officials responsible for the administration of justice, non-governmental organizations and the media.

23. The Committee draws the attention of the Government of Ecuador to the provisions of paragraph 6 (a) of the Guidelines Regarding the Form and Contents of Periodic Reports from States Parties, and requests that its next periodic report, due in June 2001, should include material which addresses all the present concluding observations.



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HUMAN RIGHTS COMMITTEE
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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Israel

1. The Committee considered the initial report of Israel (CCPR/C/81/Add.13) at its 1675th, 1676th and 1677th meetings (see CCPR/C/SR.1675-1677), held on 15 and 16 July 1998, and adopted the following concluding observations at its 1694th meeting (CCPR/C/SR.1694), held on 28 July 1998.

A. Introduction

2. The Committee welcomes the initial report submitted by the Government of Israel, and notes with satisfaction that it was largely prepared in accordance with the Committee's guidelines concerning the form and contents of initial reports. The Committee, however, regrets the considerable delay in the submission of the report, which was received five years after the date on which it was due.

3. The Committee notes that the report, while providing extensive information on prevailing legislation in the field of human rights in Israel, lacks sufficient information on the implementation of the Covenant in practice and on the factors and difficulties impeding its effective implementation. This was partly rectified by the oral information provided by the delegation during the examination of the report, which enabled the Committee to embark on a frank and constructive dialogue with the State party. The Committee expresses satisfaction that the Government had widely disseminated the report among non-governmental organizations prior to its consideration by the Committee.

B. Factors and difficulties affecting the implementation of the Covenant

4. The Committee notes the security concerns in the State party, the frequent attacks on the civilian population, the problems linked to its occupation of territories and the fact that the State party is officially at war with a number of neighbouring States. However, the Committee draws attention to article 4 of the Covenant, which permits no derogation from certain basic rights even in times of public emergency.

C. Positive factors

5. The Committee notes with satisfaction that Israeli society is a democratic one in which sensitive issues are openly debated and that an active non-governmental community has taken firm root. It expresses appreciation for the wide dissemination of the initial report of Israel among professionals in the justice system who work directly in matters relating to the promotion and protection of human rights and among non-governmental organizations. It welcomes indications that the inter-ministerial network of persons that have worked together on the drafting of the present report may soon be institutionalized.

6. The Committee welcomes the fact that the report includes many references to decisions of the Supreme Court upholding rights protected under the Covenant.

7. The Committee welcomes the recent establishment of the Public Defender's Office. It also welcomes efforts to implement the recommendations of the Kremnitzer Committee, which address questions of police violence, and of the Goldberg Committee regarding rules of evidence. It welcomes the progressive steps which have led to the amendment of the Criminal Code and to the establishment of the Department for Investigation of Police Misconduct within the Ministry of Justice to review complaints of maltreatment by members of the police and security forces. The Committee takes note that the State Comptroller's Office is responsible for acting as Ombudsman, and would welcome further information on its activities, particularly as regards measures to combat discrimination.

8. The Committee notes with satisfaction the establishment of bodies in various ministries to address questions relating to the status of women, and particularly welcomes the activities of the Knesset Committee for the Advancement of the Status of Women. It also notes with satisfaction: the establishment of a national authority on the advancement of women with a wide range of responsibilities; the amendment of the Equal Employment Opportunities Law placing the burden of proof upon the employer in civil sexual harassment suits; and the enactment of the Equal Pay (Male and Female Employees) Law.

D. Principal subjects of concern and recommendations

9. The Committee notes with regret that, although some rights provided for in the Covenant are legally protected and promoted through the Basic Laws, municipal laws, and the jurisprudence of the courts, the Covenant has not been incorporated in Israeli law and cannot be directly invoked in the courts. It

recommends early action in respect of recent legislative initiatives aimed at enhancing the enjoyment of a number of the rights provided for in the Covenant, including proposals for new draft Basic Laws on due process rights and on freedom of expression and association. It also recommends that consideration be given to enacting further laws to give effect to any rights not already covered by Basic Laws.

10. The Committee is deeply concerned that Israel continues to deny its responsibility to fully apply the Covenant in the occupied territories. In this regard, the Committee points to the long-standing presence of Israel in these territories, Israel's ambiguous attitude towards their future status, as well as the exercise of effective jurisdiction by Israeli security forces therein. In response to the arguments presented by the delegation, the Committee emphasizes that the applicability of rules of humanitarian law does not by itself impede the application of the Covenant or the accountability of the State under article 2, paragraph 1, for the actions of its authorities. The Committee is therefore of the view that, under the circumstances, the Covenant must be held applicable to the occupied territories and those areas of southern Lebanon and West Bekaa where Israel exercises effective control. The Committee requests the State party to include in its second periodic report all information relevant to the application of the Covenant in territories which it occupies.

11. The Committee expresses its deep concern at the continued state of emergency prevailing in Israel, which has been in effect since independence. It recommends that the Government review the necessity for the continued renewal of the state of emergency with a view to limiting as far as possible its scope and territorial applicability and the associated derogation of rights. In this regard, the Committee draws attention to article 4 of the Covenant, which permits no derogation from articles 6, 7, 8 (paras. 1 and 2), 11, 15, 16 and 18, and requires that permitted derogations be limited to the extent strictly required by the exigencies of the situation.

12. The Committee expresses serious concern over deeply imbedded discriminatory social attitudes, practices and laws against Arab Israelis that have resulted in a lower standard of living compared with Jewish Israelis, as is evident in their significantly lower levels of education, access to health care, access to housing, land and employment. It notes with concern that most Arab Israelis, because they do not join the army, do not enjoy the financial benefits available to Israelis who have served in the army, including scholarships and housing loans. The Committee also expresses concern that the Arabic language, though official, has not been accorded equal status in practice, and that discrimination against members of the Arab minority appears to be extensive in the private sector. In this regard, the Committee urges the State party to take steps without delay to ensure equality to Arabs and to proceed as soon as possible with the planned formulation of a draft law on discrimination in the private sector and to adopt it at an early date.

13. The Committee is concerned that Palestinians in the occupied territories who remain under the control of Israeli security forces do not enjoy the same rights and freedoms as Jewish settlers in those territories, in particular in regard to planning and building permits and access to land and water. The Committee is also concerned at the policies of confiscation of lands and

settlement in the occupied territories. The Committee recommends that coordinated and targeted efforts be made to establish basic standards that are applicable equally to all persons under the jurisdiction of Israel.

14. The Committee is also concerned at the discrimination faced by Bedouins, many of whom have expressed a desire to continue to live in settlements in the Negev which are not recognized by the Israeli Government and which are not provided with basic infrastructure and essential services. The Committee recommends that members of Bedouin communities should be given equality of treatment with Jewish settlements in the same region, many of which are also dispersed and populated by small numbers of people.

15. The Committee expresses concern over the situation of women who, despite the advances noted in paragraph 8, continue to face discrimination in many aspects of life, including in military service and in religious institutions, and that they are underrepresented in the conduct of public affairs. The Committee notes that no clear plan of action exists which addresses the situation of the most disadvantaged group of women, namely those belonging to the Arab minority. The Committee recommends that targeted measures be considered to accelerate progress towards equality, in particular for Arab women.

16. The Committee regrets that women brought to Israel for purposes of prostitution, many under false pretences or through coercion, are not protected as victims of trafficking but are likely to be penalized for their illegal presence in Israel by deportation. Such an approach to this problem effectively prevents these women from pursuing a remedy for the violation of their rights under article 8 of the Covenant. The Committee recommends that serious efforts be made to seek out and punish the traffickers, to institute rehabilitation programmes for the victims and to ensure that they are able to pursue legal remedies against the perpetrators.

17. With respect to article 6 of the Covenant, the Committee is concerned about the number of Palestinians who have been killed by the security forces, as well as all persons who have been the victims of terrorist attacks. The Committee expresses concern over the use of rubber-coated metal bullets by the security forces in the occupied territories in dispersing demonstrations. This type of rubber bullet is reported to have killed many Palestinians, including children. The Committee urges the State party to enforce rigorously the strict limitations on the operational rules as to the use of firearms and the use of rubber bullets against unarmed civilians. It requests that the next periodic report include precise information on the number of deaths, including those caused by rubber bullets, the number of complaints arising from their use and the number of defence and security personnel that have been punished or disciplined as a result.

18. The Committee regrets the introduction by the Government of a draft law which would deny victims compensation for excesses committed by members of the security forces against Palestinian residents of the occupied territories. It requests that detailed information on these matters be included in the next periodic report of the State party.

19. The Committee is deeply concerned that under the guidelines for the conduct of interrogation of suspected terrorists authority may be given to the security service to use "moderate physical pressure" to obtain information considered crucial to the "protection of life". The Committee notes that the part of the report of the Landau Commission that lists and describes authorized methods of applying pressure remains classified. The Committee notes also the admission by the State party delegation that the methods of handcuffing, hooding, shaking and sleep deprivation have been and continue to be used as interrogation techniques, either alone or in combination. The Committee is of the view that the guidelines can give rise to abuse and that the use of these methods constitutes a violation of article 7 of the Covenant in any circumstances. The Committee stresses that article 7 of the Covenant is a non-derogable prohibition of torture and all forms of cruel, inhuman or degrading treatment or punishment. The Committee urges the State party to cease using the methods referred to above. If legislation is to be enacted for the purpose of authorizing interrogation techniques, such a law should explicitly prohibit all forms of treatment prohibited by article 7.

20. Further in relation to article 7 of the Covenant, the Committee notes that prisoners may be segregated in Israel as a preventive measure for the protection of security, the maintenance of order or to guarantee the safety of the prisoner. Noting that segregation involves substantial isolation and may be extended over long periods of time, the Committee recalls its General Comment 20 (44) in which it noted that prolonged solitary confinement of a detained or imprisoned person may violate article 7. The Committee recommends that efforts be made to avoid prolonged isolation of segregated prisoners.

21. The Committee remains concerned that despite the reduction in the number of persons held in administrative detention on security grounds, persons may still be held for long and apparently indefinite periods of time in custody without trial. It is also concerned that Palestinians detained by Israeli military order in the occupied territories do not have the same rights to judicial review as persons detained in Israel under ordinary law. A specific concern of the Committee is that at least some of the persons kept in administrative detention for reasons of State security (and in particular some Lebanese) do not personally threaten State security but are kept as "bargaining chips" in order to promote negotiations with other parties on releasing detained Israeli soldiers or the bodies of deceased soldiers. The Committee considers the present application of administrative detention to be incompatible with articles 7 and 16 of the Covenant, neither of which allows for derogation in times of public emergency. The Committee takes due note that Israel has derogated from article 9 of the Covenant. The Committee stresses, however, that a State party may not depart from the requirement of effective judicial review of detention. The Committee recommends that the application of detention be brought within the strict requirements of the Covenant and that effective judicial review be made mandatory.

22. While acknowledging the security concerns that have led to restrictions on movement, the Committee notes with regret the continued impediments imposed on movement, which affect mostly Palestinians travelling in and between East Jerusalem, the Gaza Strip and the West Bank, and which have grave consequences affecting nearly all areas of Palestinian life. The Committee considers this to raise serious issues under article 12. In regard to persons

in these areas, the Committee urges Israel to respect the right to freedom of movement provided for under article 12, including the right to return to one's country.

23. In regard to Palestinians who are resident in East Jerusalem, the Committee is concerned that the increasingly restrictive conditions for maintaining the right to permanent residence, the denial of requests for family reunification and the difficulty experienced by non-Jews in obtaining building permits and accommodation have resulted in increasing numbers being forced to move to the occupied territories. The Committee expresses its profound concern at the effect of the unpublished directive of the Ministry of the Interior, under which Palestinians may lose their right to live in the city if they cannot prove that East Jerusalem has been their "centre of life" for the past seven years. The Committee notes that this policy is being applied retroactively to both Palestinians who live abroad and to those who live in the West Bank or in nearby Jerusalem suburbs, but not to Israeli Jews or to foreign Jews who are permanent residents of East Jerusalem. The Committee recommends that the rules and procedures relating to permanent residency status be applied without discrimination.

24. The Committee deplores the demolition of Arab homes as a means of punishment. It also deplores the practice of demolitions, in part or in whole, of "illegally" constructed Arab homes. The Committee notes with regret the difficulties imposed on Palestinian families seeking to obtain legitimate construction permits. The Committee considers the demolition of homes to conflict directly with the obligation of the State party to ensure without discrimination the right not to be subjected to arbitrary interference with one's home (art. 17), the freedom to choose one's residence (art. 12) and equality of all persons before the law and equal protection of the law (art. 26).

25. The Committee is also concerned that the Israel Lands Administration (ILA), responsible for the management of 93 per cent of land in Israel, includes no Arab members and that while the ILA has leased or transferred land for the development of Jewish towns and settlements, few Arab localities have been established in this way until recent years. The Committee recommends that urgent steps be taken to overcome the considerable inequality and discrimination which remain in regard to land and housing.

26. The Committee regrets that the authorities appear to be placing obstacles in the way of family reunion in the case of marriages between an Israeli citizen and a non-citizen who is not Jewish (and therefore not entitled to enter under the Law of Return). These obstacles, which include long waiting periods for entry permits, a "probation" period of over five years' residence to establish that the marriage is genuine and a further waiting period for citizenship, are applied even more rigorously in the case of Arab citizens, particularly those who marry persons resident in the occupied territories. The Committee considers such obstacles to be incompatible with articles 17 and 23. It is recommended that the Government reconsider its policies with a view to facilitating family reunion of all citizens and permanent residents.

27. The Committee is concerned that Arab women citizens of Israel have in some cases been required to relinquish their citizenship should they marry a Palestinian and apply for residence in the occupied territories. It welcomes the Israeli Government's response that this policy no longer applies and recommends that those already affected be made fully aware of the relevant legal provisions and that their status be restored.

28. The Committee is concerned at the preference given to the Jewish religion in the allocation of funding for religious bodies, to the detriment of Muslims, Christians, Druze and other religious groups. The Committee recommends that regulations and criteria for funding be published and applied to all religious groups on an equal basis.

29. The Committee is concerned that the application of religious law to determine matters of personal status, including marriage and divorce, and the absence of provision for civil marriage effectively deny some persons the right to marry in Israel, and result in inequality between men and women. It is also concerned that the minimum age of marriage for girls, fixed by law at 17, may be reduced by the religious courts, and that no minimum age is fixed for men. The lack of provision for civil burial is also a matter of concern. The Committee urges early implementation of measures currently under consideration to facilitate civil marriages and civil burial for those who do not belong to a religion. It recommends that the State party take into account international standards for the age of majority in its current review of the minimum marriageable age for men and women.

30. The Committee recommends that the Government consider ratifying the Optional Protocol to the Covenant.

31. The Committee requests that the Government of Israel submit its second periodic report, which is due by June 2000. It also requests that the next report include information on the implementation of the Covenant in all lands over which Israel exercises effective control during the period covered by the report.

32. The Committee recommends the publication and distribution of the concluding observations of the Committee to public bodies, media agencies, and non-governmental organizations working in the area of human rights.



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CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Italy

1. The Committee considered the fourth periodic report of Italy (CCPR/C/103/Add.4) at its 1679th and 1680th meetings (see CCPR/C/SR.1679 and 1680), held on 17 July 1998, and adopted the following concluding observations at its 1693rd meeting (CCPR/C/SR.1693), held on 28 July 1998.

A. Introduction

2. The Committee expresses its appreciation to the State party for its report and for the provision, by its delegation, of further information about developments of the human rights situation in Italy up to the time of the examination. It notes that the dialogue between the Committee and the delegation proceeded in a satisfactory manner in the course of the examination itself the answers and explanations given by the delegation have enabled the Committee to grasp not only the legal norms and enactments governing the obligations set out in the Covenant, but also the extent to which these rights may actually be enjoyed by the people of the country.

B. Positive aspects

3. The Committee is pleased to note that Italy has ratified the Second Optional Protocol to the Covenant and that the Constitutional Court in 1996 reinforced the right to life by declaring unconstitutional the law ratifying a treaty of extradition on the grounds that there was no absolute guarantee in law that the person concerned would not be executed.

4. The Committee commends the action taken to reduce the length of a nominal life sentence to a maximum finite sentence.

5. It is noted with appreciation that the judiciary has begun to treat offences concerning trafficking of women and others for the purpose of prostitution as acts which can be assimilated to slavery and contrary to international and national law.

6. The Committee welcomes the institution of the Ministry of Equal Opportunities and the 1997 plan to implement the results of the Fourth World Conference on Women.

7. The Committee appreciates the recent changes in legislation concerning controls applied to illegal immigrants, which improve their rights while awaiting a decision on admission and the possibility of family reunion in the case of admission and which bring more into line with article 13 the guarantees for such persons before they may be deported.

8. Legislation has been passed to regulate the collection and use of personal computerized data along with another measure subjecting wire-tapping to strict control, both of which, in the Committee's opinion, assist in the implementation of article 17 of the Covenant.

9. The Committee welcomes the establishment of the National Observatory on Religious Freedom and the fact that its activities include dealing with complaints about constraints on religious freedom.

10. The Committee notes with satisfaction that with regard to its concerns, expressed on concluding its examination of Italy's third periodic report, about the excessive concentration of control of the mass information media in the hands of a small group of people, new laws regulating the extent of control of such media have been passed to overcome this situation.

C. Principal subjects of concern and recommendations

11. The Committee reiterates its regret that Italy has still not withdrawn any of its reservations to the Covenant; it recommends that all the reservations should be reconsidered with the object of determining whether their continuance is really necessary.

12. The Committee regrets that there remain structural and cultural problems preventing the full enjoyment by women of equal opportunities in public and political life and in employment and that equal pay is often not given for work of equal value. It recommends that urgent steps be taken, by way of education, encouragement and legal means, to reduce or eliminate these inequalities. The Committee would like to receive information on the de facto situation of women, including statistics, in the next report.

13. The Committee remains concerned at the inadequacy of sanctions against police and prison officers who abuse their powers. It recommends that due vigilance be maintained over the outcome of complaints made against members of the carabinieri and against prison officers.

14. The Committee recommends that the maximum period during which a person may be held in custody following arrest on a criminal charge be reduced, even in exceptional circumstances, to less than the present five days and that the arrested person be entitled to access to legal advice as soon as he or she is arrested.

15. The Committee has again paid close attention to the Italian system of holding offenders, before and after trial, in "preventive detention" until the final stages of any possible appeal have been exhausted and the sentence has been finalized. It notes that the maximum period for such detention is set by reference to the penalty for the offence of which the person stands accused, and can last up to six years; this could constitute an infringement of the presumption of innocence (art. 14, para. 2) and the right to the principle of a fair trial within a reasonable time or to release (art. 9, para. 3). The Committee therefore recommends that (i) the linkage between the offence with which a person has been charged and the length of detention from the time of arrest up to final sentence should not be maintained; and (ii) that the grounds for preventive detention be restricted to those cases in which such detention is essential to protect legitimate interests, such as the appearance of the accused at the trial.

16. The Committee notes that changes in the Code of Criminal Procedure have resulted in some reduction in the numbers of persons held in "preventive detention". It is concerned, however, that prison overcrowding remains a serious problem and recommends that urgent attention be paid to the rectification of this situation (art. 10).

17. The Committee's attention has been drawn to steps taken to speed up both criminal and civil trials, but it is concerned that, so far, no result has become apparent. It therefore recommends that further measures be taken to increase the efficiency and promptness of the entire system of justice (art. 14, para. 3 (c)).

18. The Committee is concerned at the increase in incidents of racial intolerance. It recommends that all measures by way, for example, of legal constraint and education be continued to eradicate this phenomenon (arts. 3 and 26).

19. It is noted that delays continue to occur with respect to passing legislation concerning the following: the introduction into the Criminal Code of the offence of torture as defined in international law (art. 7); the provision of both criminal and civil sanctions against those who perpetrate domestic violence (arts. 3, 23 and 24); the introduction of measures giving effect to further improvement of the rights of persons belonging to ethnic, religious and linguistic minorities and for the protection of the rights of the Slovenian minority (art. 27).

20. The Committee requests the State party to ensure the wide dissemination in Italy of the State party's report and the Committee's concluding observations, and to inform the Committee of steps taken to implement the observations in its fifth periodic report, due in June 2002.



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Concluding observations of the Human Rights Committee

Algeria

1. The Committee considered the second periodic report of Algeria (CCPR/C/101/Add.1) at its 1681st, 1682nd, 1683rd and 1684th meetings, held on 20 and 21 July 1998 (CCPR/C/SR.1681-1684), and adopted the following concluding observations at its 1696th meeting (CCPR/C/SR.1696), held on 29 July 1998.

A. Introduction

2. The Committee commends the State party for addressing some of the issues raised in the Committee's concluding observations (CCPR/C/79/Add.1) following the examination of Algeria's initial report (CCPR/C/62/Add.1) in 1992. It notes that Algeria's second periodic report was submitted with a delay of more than two years. While acknowledging that the report and subsequent submissions provided information as to the laws and regulations adopted by the Algerian Government to implement the provisions of the Covenant, the Committee observes that it does not provide sufficient specific data on the prevailing human rights crisis. The Committee regrets that many of its questions were not fully answered by the delegation and welcomes Algeria's undertaking to submit additional written information in response to questions raised by Committee members during two days of dialogue, which was characterized by a sense of solidarity by the Committee with the suffering of the Algerian people.

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B. Factors and difficulties affecting the implementation of the Covenant

3. Widespread and indiscriminate attacks against the civilian population, involving the loss of innumerable human lives, and a general climate of violence heighten the responsibilities of the State party to re-establish and maintain the conditions necessary for the enjoyment and protection of fundamental rights and freedoms in Algeria.

C. Positive factors

4. The Committee welcomes the establishment of the National Observatory for Human Rights, and the Médiateur de la République (Ombudsman of the Republic), with competence to receive complaints from individuals about human rights violations.

5. The Committee commends the establishment of the National Committee for the Preservation and the Promotion of Women, and the increased participation of women in public life.

D. Principal subjects of concern and recommendations

6. The Committee is appalled at the widespread massacre of men, women and children in a great number of villages and towns. The Committee is also seriously concerned that women have been the victims of not only killings, but also of abduction, rape and severe violence. The Committee is also concerned at the lack of timely or preventive measures of protection to the victims from police or military officials in the vicinity and at the persistent allegations of collusion of members of the security forces in terrorist attacks.

The Committee urges the State party to adopt effective measures:

- (a) to prevent those attacks and, if they nevertheless occur, to come promptly to the defence of the population;
- (b) to ensure that proper investigations are conducted by an independent body to determine who the offenders are and to bring them to justice; and
- (c) in all cases of massacres to conduct an independent enquiry into the conduct of the security forces, from the lowest to the highest levels, and where appropriate, to subject them to penal and disciplinary sanctions.

7. The Committee is further concerned at the less than satisfactory responses from the delegation, with regard to innumerable reports of arbitrary or extrajudicial executions of individuals, some while in custody, others under suspicion of being associated in one way or another with terrorist groups.

The State party should urgently ensure that:

- (a) independent mechanisms be set up to investigate all violations of the right to life and security of the person;

- (b) the offenders be brought to justice;
- (c) access be given as soon as possible to the International Committee of the Red Cross and other independent observers.

8. The Committee is concerned about the meagre information provided by the Government, both in its report and its oral presentation and in its responses to questions raised by the Committee, regarding the organization of "legitimate defence groups", their official recognition, competence, supervision and training. Serious questions arise as to the legitimacy of the transfer of such power by the State to private groups, especially in view of the power which the State itself confers on them and the very real risk to human life and security entailed by the exercise of that power, coupled with the risks of unsanctioned abuse.

The Committee recommends that the Government urgently take measures to maintain within its police and defence forces the responsibility of maintaining law and order and the protection of the life and security of the population and, in the meantime, to ensure that these defence groups are brought under the strict and effective control of responsible State organs, and that they are promptly brought to justice in the case of abuse.

9. Notwithstanding the denial by the Algerian delegation that torture is not practised by certain authorities, the Committee is deeply concerned over persistent allegations of systematic torture. The Committee deplores the apparent routine acceptance by trial court judges of confessions extracted under duress, even when there is medical evidence of torture, and calls on the State party to take all necessary measures to redress this situation.

The Committee urges the State party to ensure:

- (a) a credible system for monitoring treatment of all detainees so as to ensure that they are not subject to torture or to cruel, inhuman or degrading treatment;
- (b) that all specific allegations be investigated by an impartial body and that the results of such investigations be published;
- (c) that officials involved in torture be prosecuted and, if convicted, severely punished.

10. Given the unsatisfactory responses of the delegation and the number of complaints from family members, the Committee is gravely concerned at the number of disappearances and at the failure of the State to respond adequately, or indeed at all, to such serious violations. Disappearances may involve the right to life consecrated under article 6 of the Covenant, and where the disappeared individuals are still alive and are kept incommunicado, disappearances may involve the right guaranteed under article 16 of the Covenant which provides that every individual shall have the right to recognition everywhere as a person before the law. In this situation these

individuals are also deprived of their capacity to exercise all the other rights, without any recourse, recognized under the Covenant. Furthermore, disappearances violate article 7 with regard to the relatives of the disappeared.

The Committee urges the State party to adopt measures (a) to establish a central register to record all reported cases of disappearances and day-to-day action taken to retrace the disappeared; and (b) to assist the families concerned to retrace the disappeared.

The Committee further requests the State party, in its next periodic report, to give an account of the number of cases reported, the investigations conducted and the results achieved.

11. The Committee has noted that, while the Emergency Decree of 1992 relating to "subversion of terrorism" has been repealed, some of its provisions have been incorporated in the normal penal laws. Those provisions prescribe an increased number of offences for which the death penalty may be imposed; a lowering of the age to 16 for which a person may be liable to such a penalty; an extension from 2 to 12 days for which a suspect may be administratively detained incommunicado; and a definition of "terrorist" or "subversive" activities which lends itself to abuse.

The Committee recommends that the amendments to the Penal Law be brought into strict compliance with articles 6 and 9 of the Covenant.

12. The National Observatory for Human Rights has conceded in its annual report for 1996 that places of detention exist which are outside the control legally stipulated by law. This reinforces allegations from many sources on detention of people who are not registered and brought before the courts, as required both by Algerian law and article 9 of the Covenant.

The State party must ensure that:

- (a) nobody may be arrested or detained "outside the law";
- (b) that complaints about such arrest or detention be given immediate attention and that relatives, friends or lawyers of persons detained are able to receive an effective remedy, which includes reviewing the legality of the detention;
- (c) all persons arrested be kept at officially designated places of detention; their families be immediately informed; they have immediate access to a lawyer; and they are promptly charged and brought to trial;
- (d) their detention should not exceed the limit provided by law and that they have a right to medical examination on arrest and at the end of their detention.

13. With regard to the guarantee of equal treatment of women in the enjoyment of all the rights guaranteed to them, the Committee notes the statement made by the delegation that the interpretative declaration

concerning article 23, paragraph 4, of the Covenant made by Algeria on ratification of the Covenant would become obsolete with time. The Committee also notes that progress has been achieved by women in public life and civil society. Nevertheless, the Family Code still contains important areas of inequality which are not in conformity with articles 3, 16, 23 and 26 of the Covenant in respect of which Algeria has made no reservations. In this regard, the Committee notes that under the Family Code, a woman's consent to her first marriage is generally mediated by a male guardian, and that this guardian can deny the woman her choice of a husband. It notes also that the Family Code provides for the husband to be the head of the family and for the possibility of polygamous marriage, and that it precludes a woman from marrying a non-Muslim while the same restriction does not apply to a man.

The Committee therefore recommends that the State party should bring its legislation into conformity with all the rights to which women are entitled under articles 3, 16, 23 and 26 of the Covenant.

14. With regard to the judiciary, the Committee is concerned that the application of certain executive decrees of 1992 regulating nomination, promotion and dismissal of judges, compromises its independence. It is also concerned at the fact that judges enjoy immovability only after 10 years of work.

The Committee should like to receive additional information on the procedure for designating, electing and dismissing judges. The Committee recommends that appropriate measures be taken to ensure the full independence of the judiciary.

15. The Committee notes the statement of the delegation that the intention underlying the Arabic Language Decree which came into force on 5 July 1998 was to reinforce the status which that national language should possess. The Committee notes, however, that the compulsory, immediate and exclusive use of that language in all areas of public activity would have for effect to impede large sections of the population who use Berber or French in the enjoyment of the rights guaranteed under articles 19, 25, 26 and 27 of the Covenant.

The Committee recommends that the law should be urgently reviewed so as to remove the negative consequences that it produces.

16. The Committee welcomes the abolition of the State-controlled "reading committees" stationed at publishing establishments as well as the formal directives prohibiting the publication of unauthorized information relating to "security issues". The Committee, however, notes that in practice numerous restrictions still persist with regard to freedom of expression dealing with, for example, coverage of allegations and discussion of corruption and criticism of government officials and of material regarded as an expression of sympathy or encouragement of subversion, all of which gravely prejudice the right of the media to inform the public and the right of the public to receive information. The Committee is also deeply concerned at the threats against and assassinations of journalists, human rights defenders and lawyers.

The Committee recommends that current legislation should be reviewed so as to protect fully the right to freedom of thought and opinion and freedom of expression as guaranteed under articles 18 and 19 of the Covenant.

17. The Committee remains concerned that the State party's restriction under Law 97-09 on the right to form political parties, effectively prohibits political activists the right to associate with one another or to vote for representatives of their choice, in view of the wide range of proscribed categories (religious, linguistic, racial, gender related, regional, corporatist). Since taking effect, this law has been invoked to ban or prevent the legalization of more than 30 parties.

The Committee recommends that the conditions required by the Covenant with respect to restrictions on the right to freedom of association be met and that current legislation be amended so as to bring it into conformity with the requirements of the Covenant and the obligations entered into by Algeria upon its accession to it.

18. The Committee observes that, although Algeria became a party to the Optional Protocol in 1989, very few communications have been addressed to the Committee, in spite of the widespread human rights crisis and consequent violations which have occurred in the last decade. This situation indicates that the people in Algeria may not be aware of their right to address communications to the Committee.

The Committee recommends that urgent steps be taken by Algeria to make known to the public, the universities, the legal community and, particularly, to the non-governmental human rights organizations, the rights protected under the Covenant and the fact that individuals whose rights have been violated may submit communications to the Committee.

19. The Committee draws to the attention of the Government of Algeria the provisions of paragraph 6 (a) of the Guidelines Regarding the Form and Contents of Periodic Reports from State parties, and requests that its next periodic report, due in June 2000, should contain material which responds to all the present concluding observations. The Committee further requests that Algeria's second periodic report and these concluding observations be widely disseminated among the public at large in all parts of Algeria.



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HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Concluding Observations of the Human Rights Committee

The former Yugoslav Republic of Macedonia

1. The Committee considered the initial report of the former Yugoslav Republic of Macedonia (CCPR/C/74/Add.4) at its 1685th, 1686th and 1687th meetings, held on 22 and 23 July 1998 (CCPR/C/SR.1685, 1686 and 1687) and adopted the following concluding observations at its 1696th meeting (CCPR/C/SR.1696), held on 29 July 1998.

A. Introduction

2. The Committee expresses its appreciation to the State party for its comprehensive initial report, prepared largely in accordance with the Committee's guidelines. At the same time, it notes that the information provided in the report deals primarily with legal and institutional issues and does not contain sufficient data on the practical application of the Covenant.

B. Factors and difficulties impeding the application of the Covenant

3. The Committee takes note of the statement of the delegation that the principal difficulty in ensuring effective implementation of the Covenant lies in the complex and difficult process of transition from a political and social environment shaped for decades by the concept of collective rights to a respect for the rights of individuals. It also notes that the same tradition

inhibits individuals from impugning State actions through the courts and other agencies established for the purpose, and through the Optional Protocol. Continuing ethnic tensions, particularly concerning the Albanian minority, also remain a matter of major concern.

C. Positive aspects

4. The Committee notes with satisfaction that the Government of the former Yugoslav Republic of Macedonia is attempting to ensure the protection accorded under the Covenant to its population in a period of fundamental change of political and economic systems and a redefinition of State institutions. It observes that the level of that protection has been further reinforced by the ratification of the two Optional Protocols to the Covenant.

5. The Committee welcomes the fact that, by virtue of article 118 of the Constitution, the Covenant is a part of the internal legal order which cannot be changed by domestic legislation, and that its provisions may be directly invoked before the courts.

6. The Committee welcomes the commitment made by the State party to proceed with the reform of the judicial system and of the system of penitentiary institutions.

7. The Committee considers the passage of the Law on the Ombudsman in February 1997 and the subsequent appointment by the Parliament of the Ombudsman as an important element in the building of an effective system of institutional protection of Covenant rights.

8. The Committee commends the State party for the enactment of legislation designed to comply with the anti-discrimination provisions of the Covenant (arts. 2, 20, 26 and 27), including the Act on Public Information, the Act on Telecommunications and the Law on Broadcasting, which prohibit the use of mass media to incite national, racial or religious hatred or intolerance; the Act on Political Parties, which prohibits the establishment of parties whose aim is the incitement to national, racial or religious hatred and intolerance; the Act on Social Organizations and Citizens' Associations, which also prohibits activities that violate human rights or encourage national, racial or religious hatred or intolerance; and the Assembly Declaration of 1997 on the promotion of inter-ethnic relations.

9. The Committee also commends the State party for its cooperation with non-governmental organizations and foundations, including the Macedonia Center for International Cooperation, the Open Society Institute, and women's organizations. It further welcomes the dissemination given to the Covenant and the Optional Protocol in the Macedonian language and in the languages of the ethnic minorities.

D. Principal subjects of concern and the Committee's recommendations

10. The Committee expresses serious concern at ethnic violence involving the police in Gostivar on 7 July 1997, in the course of which three persons lost their lives and hundreds were wounded. It is also concerned at indications

that all fair-trial guarantees were not met in dealing with local officials. The Committee recommends that these events be thoroughly investigated by an independent body, that those found responsible be subjected to appropriate penal or disciplinary sanctions, and that all necessary measures be taken to prevent their recurrence anywhere within the country.

11. The Committee is concerned by reported cases of abuse of police authority, including unlawful arrest and detention, excessive use of force - especially against members of minority groups - and physical ill-treatment of detainees. The Committee recommends that the persons responsible be subjected to appropriate disciplinary or penal sanctions and, further, that the Government strengthen training programmes on human rights for the police and establish permanent mechanisms for ongoing instruction with the participation of international agencies and experts in the field.

12. The Committee also notes with concern the continued application of restrictive legislation inherited from the previous regime in various fields, including concerning the importation of foreign printed materials. The existence and application in practice of such laws may violate the Covenant's provisions and, in more general terms, make the degree of its incorporation into the domestic legal system uncertain. The Committee recommends that the State party ensure that persons under its jurisdiction enjoy the right to seek and impart information, as provided for in article 19 of the Covenant, and repeal any legislation which runs counter to those rights.

13. The Committee considers that the principle of equality between men and women is far from being implemented in practice, particularly in the spheres of employment and education, in spite of progress in some areas such as the judiciary. It takes note of the activities of the Department for the Promotion of Gender Equality and other governmental initiatives to overcome deeply rooted stereotypes and traditions, and recommends that further measures to ensure genuine equality be undertaken without delay.

14. While noting that marital rape has been considered a crime since 1996, the Committee regrets that domestic violence against women is reported to be widespread. It recommends that concerted action be undertaken by all public authorities to reduce the incidence of domestic violence and to strengthen the remedies which are open to women who are subjected to it.

15. The Committee is concerned at the continuation of the practice of forcing citizens to attend so-called "informative talks" in spite of a decision of the Constitutional Court and the enactment of the new Law on Criminal Procedures, both of which provide that police may not compel such attendance without a court order. Such practices and the failure to give full effect to the new Law are incompatible with provisions of article 9 of the Covenant.

16. The Committee notes the increase since 1990 in minority participation in political, administrative, cultural and other institutions, but expresses its concern at the fact that it is still well below a level commensurate with their proportion of the population. The Committee encourages the State party to strengthen its programmes to increase the representation of the Albanian

and other ethnic minorities in public life, including the civil service, army and police. The Roma population are a matter of particular concern. The Committee further recommends that the State party continue to encourage minority participation in the design, organization and functioning of the educational system, in particular at the secondary and higher educational levels, and provide for the training of teachers of minority languages in public establishments.

17. The Committee recommends that the State party disseminate widely the text of its initial report, as well as the present concluding observations. It further requests that its second periodic report, due in June 2000, include material which addresses itself to those observations.



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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

United Republic of Tanzania

1. The Committee considered the third periodic report of the United Republic of Tanzania (CCPR/C/83/Add.2) at its 1689th and 1690th meetings (CCPR/C/SR.1689 and 1690), held on 24 July 1998, and adopted the following concluding observations at its 1697th meeting (CCPR/C/SR.1697), held on 30 July 1998.

A. Introduction

2. The Committee welcomes the third periodic report submitted by the Government of the United Republic of Tanzania and notes that certain further information was provided by the delegation; it regrets, however, that the report did not fully comply with the Committee's guidelines and that the delegation addressed only in part the Committee's list of issues and was not in a position to answer fully members' oral questions.

B. Factors and difficulties affecting the implementation of the Covenant

3. Since the consideration of the last periodic report there has occurred an enormous influx of refugees into Tanzania from neighbouring countries and from Somalia. The volume has been such that individual assessment has been impossible except in a few cases; all the rest of these persons have consequently either been confined to camps where the conditions are primitive and which the State party has insufficient resources properly to police, or otherwise left to fend for themselves among the local villagers.

C. Positive factors

4. The restoration of political pluralism, by means of amending the Constitution, has enabled the whole population to participate in all aspects of public affairs (art. 25).
5. The courts have demonstrated a willingness to examine the actions of Government and its agencies for compliance with the Constitution, as exemplified in the interim injunction suspending the deregistration of Baraza la Wanawake wa Tanzania (BAWATA), an important women's organization.
6. Many limitations on freedom of expression have been eased on the Tanzanian mainland for the press, radio and television (art. 19).
7. The Committee notes with approval that a large reduction has been achieved in the employment of children in the gemstone industry, but makes a recommendation in that regard (see paragraph 25 below).
8. The Committee commends the proposal to establish a Constitutional Court to oversee, among other things, full respect for human rights.

D. Subjects of concern and the Committee's recommendations

9. The Nyalali Commission reported in 1992. Although its major constitutional proposals have been implemented there remain in force numerous acts and ordinances which it recommended for repeal or amendment. The Commission recommended the repeal of: the Emergency Powers Act 1986 (art. 4); certain aspects of the Human Resources Deployment Act 1983 which led to forced labour on communal projects (art. 8); powers of the President to detain persons (incommunicado for a period) without trial, under the Preventive Detention Act 1962 (art. 9); punishment under the Witchcraft Ordinance 1928 (arts. 7 and 10). The Commission further recommended that registration of societies under the Societies Ordinance 1954 be amended to provide for a separate Registrar and for appeal from his decisions (arts. 18 and 22). The Committee regrets that none of these proposals has been implemented and expresses the view that the Commission has accurately identified all these provisions as infringing human rights which are also protected by the Covenant; its proposals reinforce a number of the Committee's recommendations made on the examination of the second periodic report and reflect many of the Committee's current concerns. The Committee therefore recommends that priority be given to implementing the proposed reforms.
10. While the Committee is encouraged to hear that the courts are beginning to refer to the Covenant in judgements, it recommends that the Covenant be given formal recognition and applicability in domestic law (art. 2).
11. The Committee appreciates recent changes in the law so as to criminalize rape between separated spouses and the practice of female genital mutilation, as well as the power of a court to hear sexual abuse cases in private; however, it is concerned that traditional customs inhibit complaints on these matters, and that marital rape as such is not recognized as a criminal

offence. The Committee recommends that information be promulgated about these remedies and that the State party take action to support women who are entitled to take advantage of them (arts. 3 and 26).

12. The Committee is concerned at the application of personal laws which discriminate against women with respect, inter alia, to marriage, divorce, land and inheritance. The Committee is also concerned that customary attitudes discourage women from pursuing their full educational rights and that, as a result, they tend to lack the qualifications needed to reach higher levels of achievement in all aspects of activity, such as the senior judiciary, and are under-represented in political spheres. The Committee recommends that the State party put an end to these discriminatory laws and practices; that action be taken to increase the number of girls' schools; that persuasion be exerted on society to insist on girls' attendance at school; and that support be given to young women who wish to pursue higher education (arts. 3, 25 and 26).

13. The Committee is concerned that:

(a) The Law of Marriage Act discriminates against women with regard to the minimum age for marriage;

(b) Section 138 (6) of the Penal Code allows any person of African or Asiatic descent to marry, or permit the marriage of a girl under the age of 12, provided that there is no intention to consummate the marriage until she attains that age.

It recommends that these discriminatory features be eliminated from the law (arts. 3 and 26).

14. The Committee urges the State party to publish details on sentences to the death penalty, on the mainland and in Zanzibar; such sentences have not been carried out recently in either part of the Union, and the Committee recommends that this penalty be abolished (art. 6).

15. The Committee deplores the law in force in Zanzibar which allows for the imprisonment of both mother and father in the event of an unmarried woman becoming pregnant. In the Committee's view, this carries risks to the right to life (art. 6) (through resort to illegal abortion) and to the rights of the child (arts. 23 and 24) if born in such circumstances. It recommends the abolition of this law in Zanzibar and, noting in this connection that illegal abortion is a major cause of maternal mortality, that a national review be carried out on the restrictions on abortions (arts. 3, 6 and 26).

16. The Committee notes with approval the Nyalali Commission's recommendation to abolish corporal punishment as a judicial sentence; such penalty should also be precluded for offences against prison regulations and children should no longer be subjected to corporal punishment in schools (art. 7).

17. Despite the problems concerning the volumes of refugees entering and remaining in the country, the Committee urges that no refugee be returned to

another State unless it is certain that, once there, he or she shall not be executed or subjected to torture or other form of inhuman treatment (arts. 6, 7 and 13).

18. The Committee regrets the absence of training for the police in human rights and in the proper use of riot equipment, such as "rubber bullets". It takes note of actions by the police resulting in homicide, and is generally concerned that investigation of complaints against the police is carried out by the police themselves. It recommends that thorough training for the police be provided and that an independent mechanism be set up for investigating complaints (arts. 7 and 9).

19. The Committee is concerned about reports of armed groups ("sungu-sungu") which act as vigilantes and may commit abuses of human rights. It notes with approval the Nyalali Commission's recommendation that no militia be allowed to operate without specific legislative approval and recommends that, in any event, any such militia be properly trained and that their activities be subject to full supervision by the courts (arts. 7 and 9).

20. The Committee notes that it is accepted that prison conditions have deteriorated; there is reported overcrowding, rape and other sexual abuse of female prisoners, and a failure to comply with minimum standards. It recommends that resources be made available to remedy this situation and that training in human rights be given to prison officers, a sufficient number of female officers be recruited to ensure that only such officers are in charge of female prisoners. It also urges that alternatives to a sentence of imprisonment be made more widely available to the courts and that the judiciary be encouraged to use these alternatives, in appropriate cases, when passing sentence (art. 10).

21. The Committee urges the abolition of imprisonment for inability to pay a debt and that a study be carried out of alternative means of enforcing judgement debts, such as are currently in operation in other countries (art. 11).

22. The Committee regrets that the large number of election petitions currently before the High Court has so clogged the system that other proceedings, including trials for homicide, have been inordinately delayed. It is concerned that some two and a half years after an election, adjudication on the right of a person to sit in Parliament is still awaited. It is also concerned that case conferences (to expedite proceedings) convened by the courts themselves have offered no solution. The Committee recommends that suitable measures be adopted to extinguish the backlog of pending cases, and that a more expeditious procedure be adopted to determine electoral disputes (arts. 14 and 25).

23. The Committee calls on the State party to protect the freedom of an adult individual's sexual conduct and to bring its laws into conformity with article 17 of the Covenant.

24. The Committee notes with concern the high level of domestic violence. It recommends that specific revisions be introduced in legislation to provide civil and criminal remedies for such actions against the person responsible (art. 23).

25. The Committee remains concerned about the employment of children in industrial and agricultural activities. It urges the State party to take further steps to counter this continuing violation of children's rights (art. 24).

26. The Committee recommends the establishment of an independent body to oversee respect for and to disseminate knowledge of human rights, whether by an expansion of the powers of the existing Permanent Mission of Enquiry or by the creation of another mechanism.

27. There remain unanswered several concerns of the Committee, which were noted by the delegation, and it is anticipated that full, up-to-date answers will be provided in the fourth periodic report.

28. The Committee recommends that the Government of the United Republic of Tanzania submit its fourth periodic report by June 2002. It requests the Government to ensure the widespread dissemination of these concluding observations throughout the population, in Swahili as well as other languages. It further recommends that publicity be given to the right of individuals to make use of the Optional Protocol and the means of so doing.
